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Attorneys for Plaintiff
24/7 Customer, Inc.,

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

24/7 Customer, Inc.,

Plaintiff,

v.

LivePerson, Inc.,

Defendant.

Case No. 3:15-cv-5585

**COMPLAINT FOR PATENT
INFRINGEMENT AND JURY
DEMAND**

1 Plaintiff 24/7 Customer, Inc. (“[24]7” or “Plaintiff”) hereby alleges in its Complaint
2 against Defendant LivePerson, Inc. (“LivePerson” or “Defendant”) as follows:

3 **PARTIES**

4 1. [24]7 is a California corporation with its principal place of business at 910 E.
5 Hamilton Avenue, Suite 240, Campbell, California.

6 2. LivePerson is a Delaware corporation with its principal place of business at 475
7 10th Ave, 5th Floor, New York, New York.

8 3. LivePerson provides live-interaction and customer engagement technology for
9 clients in the retail, financial services, technology, education, media, entertainment, and travel
10 industries.

11 **JURISDICTION AND VENUE**

12 4. This action arises under the patent laws of the United States, Title 35 of the United
13 States Code, including, but not limited to, 35 U.S.C. § 271.

14 5. This court has original jurisdiction over patent infringement claims under 28
15 U.S.C. §§ 1331 and 1338(a).

16 6. Personal jurisdiction is proper over Defendant LivePerson, because LivePerson
17 conducts business, provides services, and committed acts of patent infringement in California.

18 7. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

19 **GENERAL ALLEGATIONS**

20 8. [24]7 owns patents relating to customer service products, including U.S. Patent
21 Nos. 6,205,209; 6,798,876; 7,027,586; 7,751,552; 6,970,553; 6,975,719; 7,245,715; and
22 7,215,757.

23 9. [24]7 competes directly with Defendant in providing customer service software to
24 businesses. For example, Defendant’s live-interaction platforms, including Defendant’s
25 LivePerson platform and LiveEngage platform, allow agents or representatives to chat online with
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1 website visitors, to cobrowse a website with a visitor, and to integrate data from visitor
2 interactions.¹

3 10. United States Patent No. 6,205,209 (the '209 Patent) is titled "Network that
4 Provides Applications Collaboration" and issued March 20, 2001. A copy of the '209 Patent is
5 attached as Exhibit A.

6 11. [24]7 owns all right, title, and interest in the '209 Patent.

7 12. United States Patent No. 6,798,876 (the '876 Patent) is titled "Method and
8 Apparatus for Intelligent Routing of Incoming Calls to Representatives in a Call Center" and
9 issued September 28, 2004. A copy of the '876 Patent is attached as Exhibit B.

10 13. [24]7 owns all right, title, and interest in the '876 Patent.

11 14. United States Patent No. 7,027,586 (the '586 Patent) is titled "Intelligently
12 Routing Customer Communications" and issued April 11, 2006. A copy of the '586 Patent is
13 attached as Exhibit C.

14 15. [24]7 owns all right, title, and interest in the '586 Patent.

15 16. United States Patent No. 7,751,552 (the '552 Patent) is titled "Intelligently
16 Routing Customer Communications" and issued July 6, 2010. A copy of the '552 Patent is
17 attached as Exhibit D.

18 17. [24]7 owns all right, title, and interest in the '552 Patent.

19 18. United States Patent No. 6,970,553 (the '553 Patent) is titled "Integrated Chat
20 Client with Calling Party Choice" and issued November 29, 2005. A copy of the '553 Patent is
21 attached as Exhibit E.

22 19. [24]7 owns all right, title, and interest in the '553 Patent.

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26 ¹ As used in this Complaint, "visitor" refers to a person who may be browsing a website or
27 contacting customer service or support. "Agent" or "representative" refers to a customer service
28 or support agent or representative. Defendants' "customers" are entities that purchase
LivePerson's products and/or services. Each of these entities are among the "end users" of
Defendant's products and services.

1 20. United States Patent No. 6,975,719 (the '719 Patent) is titled "Integrated Chat
2 Client with Called Party Choice" and issued December 13, 2005. A copy of the '719 Patent is
3 attached as Exhibit F.

4 21. [24]7 owns all right, title, and interest in the '719 Patent.

5 22. United States Patent No. 7,245,715 (the '715 Patent) is titled "Integrated Chat
6 Client with Receiving Party Choice" and issued July 17, 2007. A copy of the '715 Patent is
7 attached as Exhibit G.

8 23. [24]7 owns all right, title, and interest in the '715 Patent.

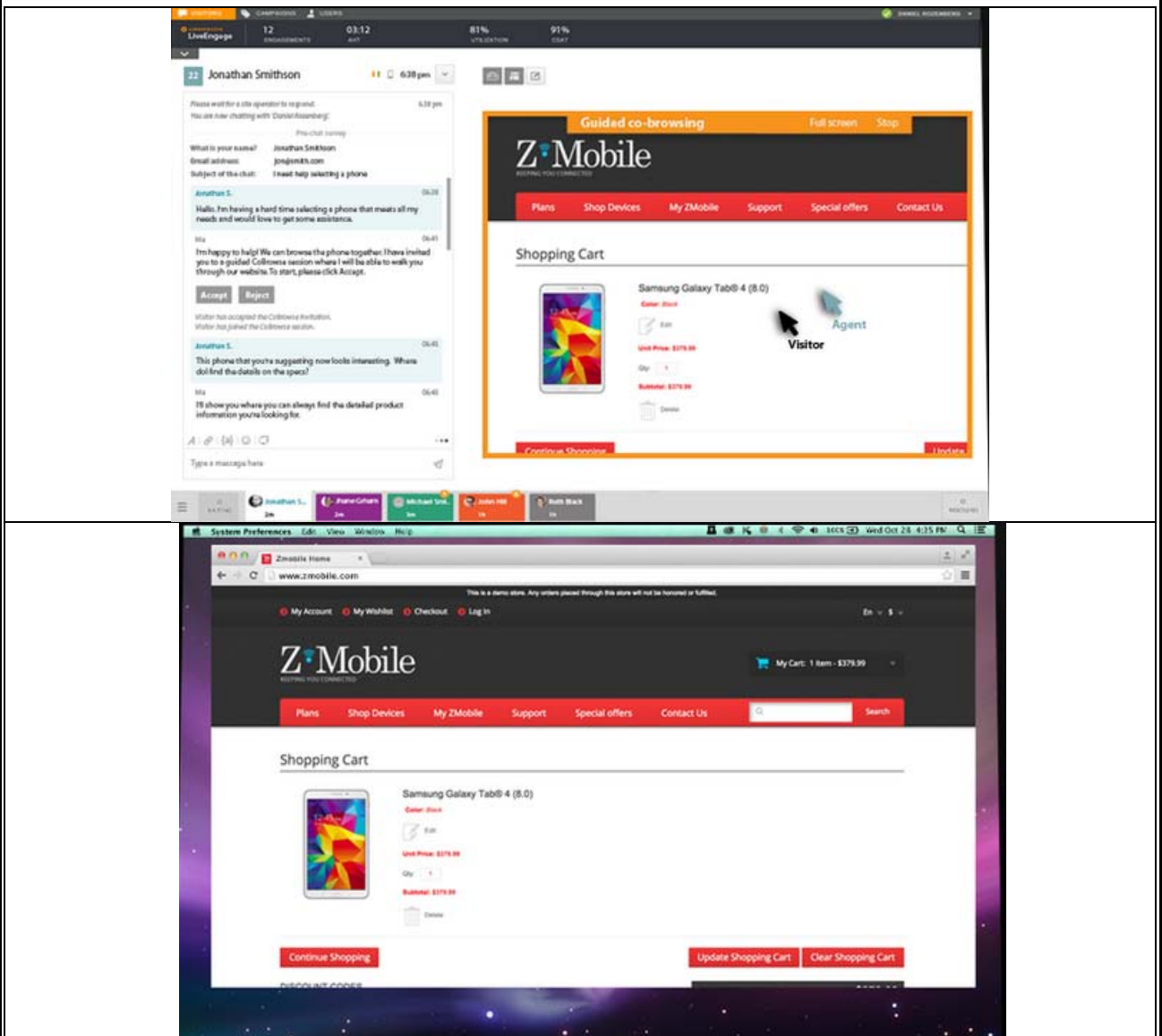
9 24. United States Patent No. 7,215,757 (the '757 Patent) is titled "System and Method
10 to Provide Automated Scripting for Customer Service Representatives" and issued May 8, 2007.
11 A copy of the '757 Patent is attached as Exhibit H.

12 25. [24]7 owns all right, title, and interest in the '757 Patent.

13 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,205,209**

14 26. [24]7 repeats and realleges each and every allegation contained in the preceding
15 paragraphs, with the same force and effect as if repeated in full here.

16 27. Defendant's live-interaction platforms, including its LivePerson platform and
17 LiveEngage platform, include a "Cobrowsing" feature that permits a service agent and a visitor to
18 simultaneously view, browse, and interact with the same webpage over a network. For example,
19 the following image from Defendant's website shows an agent's view and a visitor's view of a
20 Cobrowsing session. The agent and visitor are viewing and interacting with the same webpage
21 using different interfaces.



28. Defendant infringes the '209 Patent by, *inter alia*, making, using, selling, offering for sale, importing, and supporting Defendant's live-interaction platforms and the Cobrowsing feature on these platforms. The '209 Patent defines methods for two users in a communications network to collaborate on an application, including a method of initiating a communication by (1) receiving an identity of a called party and an identity of a collaborative application from a calling party, (2) determining a first and second endpoint type, (3) selecting a first and second version of the collaborative application based on the first and second endpoint type, and (4) making available the first and second version of the collaborative application to the calling and called party. Defendant performs each of these steps in providing its live-interaction platforms and

1 Cobrowsing to end users. Defendant has acted without authority or license from [24]7 or the
2 prior owner(s) of the '209 Patent, in violation of 35 U.S.C. § 271(a).

3 29. Defendant induces others to infringe the '209 Patent in violation of 35 U.S.C. §
4 271(b) through use of its live-interaction platforms, including the use of Cobrowsing as described
5 above. Since at least as early as the date of service of [24]7's Complaint, Defendant has
6 knowingly induced its customers, potential customers, and end users to infringe the '209 Patent
7 with the specific intent to encourage such infringement. Defendant actively promotes the use and
8 sale of its live-interaction platforms in an infringing manner through advertisements, user
9 manuals, online support pages, and the LivePerson Customer Center. Defendant further offers
10 video and live tutorials, training, and customer service support for its live-interaction platforms.
11 Defendant provides these documents, training, and services with the specific intent to induce
12 customers and other third parties to use its live-interaction platforms in an infringing manner.

13 30. Defendant contributorily infringes the '209 Patent in violation of 35 U.S.C. §
14 271(c). Defendant sells and offers to sell its live-interaction platforms for use in practicing the
15 patented process disclosed in the '209 Patent. Defendant's live-interaction platforms are material
16 to practicing the invention. The infringing features of Defendant's live-interaction platforms have
17 no substantial non-infringing uses. At least as early as the date of service of [24]7's Complaint,
18 Defendant knows that the infringing features of its live-interaction platforms are especially made
19 or especially adapted for use in infringement of the '209 Patent.

20 31. [24]7 has suffered damages as a result of Defendant's infringement of the '209
21 Patent.

22 32. Defendant's infringement, contributory infringement and inducement of
23 infringement are literal infringement or, in the alternative, infringement under the doctrine of
24 equivalents.

25 33. Defendant will continue to infringe, induce others to infringe, and/or engage in
26 contributory infringement of the '209 Patent unless enjoined by the Court.

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1 34. Defendant's acts of infringement have caused and, unless enjoined by this Court,
2 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
3 adequate remedy at law.

4 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,798,876**

5 35. [24]7 repeats and realleges each and every allegation contained in the preceding
6 paragraphs, with the same force and effect as if repeated in full here.

7 36. Defendant's live-interaction platforms, including its LivePerson platform and
8 LiveEngage platform, route incoming calls to service representatives based on a visitor's profile
9 and the representatives' profiles. Visitors browsing a website are prompted to chat with
10 representatives based on a wide range of information regarding the visitor, such as the visitor's
11 nationality, search keywords, IP address, whether the visitor is a new or returning visitor, the
12 amount of time spent on the website, the web pages visited, indications that the visitor may
13 abandon a shopping cart, or a variety of other information. If a visitor chooses to chat, the visitor
14 is then routed to a representative selected on the basis of a variety of criteria. For instance,
15 representatives are assigned "skills" to describe the representative's areas of expertise. Examples
16 of skills include "Sales," "Service" and "Tech support." Visitors are routed to representatives
17 who have the appropriate skill. Visitors are also routed to representatives based on the
18 availability of those agents to handle the chat session. Visitors are also routed to representatives
19 who have had prior interactions with the visitor. At the conclusion of the chat, the visitor and
20 representative profiles are updated with transcripts, survey results, and other information
21 regarding the outcome of the interaction.

22 37. Defendant infringes the '876 Patent by, *inter alia*, making, using, selling, offering
23 for sale, importing, and supporting Defendant's live-interaction platforms and the routing features
24 on those platforms. The '876 Patent discloses a system and method for routing calls based on a
25 customer's profile and customer service representative profiles, including a method and system
26 for routing an incoming call to a customer service representative by (1) comparing the caller
27 profile with stored customer service profiles; (2) ranking the customer service representatives; (3)
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1 routing the incoming call to a highest ranked customer service representative; and (4)
2 automatically updating the caller profile and the customer service representative profile with
3 information regarding the success of the call. Defendant performs each of these steps in
4 providing its live-interaction platforms and routing features to end users. Defendant further
5 provides a system for routing calls that performs each of these steps. Defendant has acted
6 without authority or license from [24]7 or the prior owner(s) of the '876 Patent, in violation of 35
7 U.S.C. § 271(a).

8 38. Defendant induces others to infringe the '876 Patent in violation of 35 U.S.C. §
9 271(b) through the use of its live-interaction platforms, including the routing features as described
10 above. Since at least as early as the date of service of [24]7's Complaint, Defendant has
11 knowingly induced its customers, potential customers, and end users to infringe the '876 Patent
12 with the specific intent to encourage such infringement. Defendant actively promotes the use and
13 sale of its live-interaction platforms in an infringing manner through advertisements, user
14 manuals, online support pages, and the LivePerson Customer Center. Defendant further offers
15 video and live tutorials, training, and customer service support for its live-interaction platforms.
16 Defendant provides these documents, training, and services with the specific intent to induce
17 customers and other third parties to use its live-interaction platforms in an infringing manner.

18 39. Defendant contributorily infringes the '876 Patent in violation of 35 U.S.C. §
19 271(c). Defendant sells and offers to sell its live-interaction platforms for use in practicing the
20 patented process disclosed in the '876 Patent. Defendant's live-interaction platforms are material
21 to practicing the invention. The infringing features of Defendant's live-interaction platforms have
22 no substantial non-infringing uses. At least as early as the date of service of [24]7's Complaint,
23 Defendant knows that the infringing features of its live-interaction platforms are especially made
24 or especially adapted for use in infringement of the '876 Patent.

25 40. [24]7 has suffered damages as a result of Defendant's infringement of the '876
26 Patent.

1 41. Defendant's infringement, contributory infringement, and inducement of
2 infringement are literal infringement or, in the alternative, infringement under the doctrine of
3 equivalents.

4 42. Defendant will continue to infringe, induce others to infringe, and/or engage in
5 contributory infringement of the '876 Patent unless enjoined by the Court.

6 43. Defendant's acts of infringement have caused and, unless enjoined by this Court,
7 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
8 adequate remedy at law.

9 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,027,586**

10 44. [24]7 repeats and realleges each and every allegation contained in the preceding
11 paragraphs, with the same force and effect as if repeated in full here.

12 45. Defendant's live-interaction platforms, including its LivePerson platform and
13 LiveEngage platform, route incoming calls to service agents based on the modality of a
14 communication and an agent model. Visitors browsing a website are prompted to chat with
15 service agents based on a wide range of criteria, including whether the visitor is browsing on a
16 desktop, a mobile device, or an app, whether the visitor wishes to communicate by chat or by
17 phone, the visitor's nationality, search keywords, IP address, whether the visitor is a new or
18 returning visitor, the amount of time spent on the website, the web pages visited by the visitor,
19 indications that the visitor may abandon a shopping cart, or a variety of other information. If a
20 visitor chooses to chat, the visitor is then routed to a service agent based on a variety of criteria.
21 For instance, agents are assigned "skills" to describe the agent's areas of expertise. Examples of
22 skills include "Sales," "Service" and "Tech support." Visitors are routed to agents who have the
23 appropriate skill. Visitors are also routed to agents based on the availability of those agents to
24 handle the chat session. Visitors are also routed to agents who have had prior interactions with
25 the visitor.

26 46. Defendant infringes the '586 patent by *inter alia*, making, using, selling, offering
27 for sale, importing, and supporting Defendant's live-interaction platforms and the routing features
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1 on those platforms. The '586 Patent discloses a method, apparatus, and computer readable
2 medium for routing communications based on agent models, including a method, apparatus, and
3 computer readable medium for routing customer communications to an agent by (1) identifying a
4 modality of the requested communication; (2) obtaining a profile of the customer; (3) selecting an
5 agent model for each of a plurality of agents based on the identified modality; and (4) comparing
6 the profile with the selected model for each of a plurality of agents to determine a best match.
7 Defendant performs each of these steps in providing its live-interaction platforms and routing
8 features to end users. Defendant further provides a system and a computer readable medium for
9 routing communications that performs each of these steps. Defendant has acted without
10 authority or license from [24]7 or the prior owner(s) of the '586 Patent, in violation of 35 U.S.C.
11 § 271(a).

12 47. Defendant induces others to infringe the '586 Patent in violation of 35 U.S.C. §
13 271(b) through the use of its live-interaction platforms, including the routing features as described
14 above. Since at least as early as the date of service of [24]7's Complaint, Defendant has
15 knowingly induced its customers, potential customers, and end users to infringe the '586 Patent
16 with the specific intent to encourage such infringement. Defendant actively promotes the use and
17 sale of its live-interaction platforms in an infringing manner through advertisements, user
18 manuals, online support pages, and the LivePerson Customer Center. Defendant further offers
19 video and live tutorials, training, and customer service support for its live-interaction platforms.
20 Defendant provides these documents, training, and services with the specific intent to induce
21 customers and other third parties to use its live-interaction platforms in an infringing manner.

22 48. Defendant contributorily infringes the '586 Patent in violation of 35 U.S.C. §
23 271(c). Defendant sells and offers to sell its live-interaction platforms for use in practicing the
24 patented process disclosed in the '586 Patent. Defendant's live-interaction platforms are material
25 to practicing the invention. The infringing features of Defendant's live-interaction platforms have
26 no substantial non-infringing uses. At least as early as the date of service of [24]7's Complaint,
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1 Defendant knows that the infringing features of its live-interaction platforms are especially made
2 or especially adapted for use in infringement of the '586 Patent.

3 49. [24]7 has suffered damages as a result of Defendant's infringement of the '586
4 Patent.

5 50. Defendant's infringement, contributory infringement and inducement of
6 infringement are literal infringement or, in the alternative, infringement under the doctrine of
7 equivalents.

8 51. Defendant will continue to infringe, induce others to infringe, and/or engage in
9 contributory infringement of the '586 Patent unless enjoined by the Court.

10 52. Defendant's acts of infringement have caused and, unless enjoined by this Court,
11 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
12 adequate remedy at law.

13 **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,751,552**

14 53. [24]7 repeats and realleges each and every allegation contained in the preceding
15 paragraphs, with the same force and effect as if repeated in full here.

16 54. Defendant's live-interaction platforms, including its LivePerson platform and
17 LiveEngage platform, route incoming calls to service agents based on the modality of a
18 communication and an agent model. Visitors browsing a website are prompted to chat with
19 agents based on a wide range of criteria, including whether the visitor is browsing on a desktop, a
20 mobile device, or an app, whether the visitor wishes to communicate by chat or by phone, the
21 visitor's nationality, search keywords, IP address, whether the visitor is a new or returning visitor,
22 the amount of time spent on the website, the web pages visited by the visitor, indications that the
23 visitor may abandon a shopping cart, or a variety of other information. If a visitor chooses to
24 chat, the visitor is then routed to a service agent based on a variety of criteria. For instance,
25 agents are assigned "skills" to describe the agent's areas of expertise. Examples of skills include
26 "Sales," "Service" and "Tech support." Visitors are routed to agents who have the appropriate
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1 skill. Visitors are also routed to agents based on the availability of those agents to handle the chat
2 session. Visitors are also routed to agents who have had prior interactions with the visitor.

3 55. Defendant infringes the '552 patent by *inter alia*, making, using, selling, offering
4 for sale, importing, and supporting Defendant's live-interaction platforms and the routing features
5 on those platforms. The '552 Patent discloses a method, apparatus, and computer readable
6 medium for routing communications based on agent models, including a method, apparatus, and
7 computer readable medium for routing customer communications to an agent by (1) selecting an
8 agent model for each of a plurality of agents based on an identified modality; (2) determining an
9 agent corresponding to one of the selected agent models best matched to information associated
10 with the requester of the communication; and (3) establishing a communication connection
11 between the requester and the best matched agent. Defendant performs each of these steps in
12 providing its live-interaction platforms and routing features to end users. Defendant further
13 provides a system and a computer readable medium for routing communications that performs
14 each of these steps. Defendant has acted without authority or license from [24]7 or the prior
15 owner(s) of the '552 Patent, in violation of 35 U.S.C. § 271(a).

16 56. Defendant induces others to infringe the '552 Patent in violation of 35 U.S.C. §
17 271(b) through the use of its live-interaction platforms, including the routing features as described
18 above. Since at least as early as the date of service of [24]7's Complaint, Defendant has
19 knowingly induced its customers, potential customers, and end users to infringe the '552 Patent
20 with the specific intent to encourage such infringement. Defendant actively promotes the use and
21 sale of its live-interaction platforms in an infringing manner through advertisements, user
22 manuals, online support pages, and the LivePerson Customer Center. Defendant further offers
23 video and live tutorials, training, and customer service support for its live-interaction platforms.
24 Defendant provides these documents, training, and services with the specific intent to induce
25 customers and other third parties to use its live-interaction platforms in an infringing manner.

26 57. Defendant contributorily infringes the '552 Patent in violation of 35 U.S.C. §
27 271(c). Defendant sells and offers to sell its live-interaction platforms for use in practicing the
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1 patented process disclosed in the '552 Patent. Defendant's live-interaction platforms are material
2 to practicing the invention. The infringing features of Defendant's live-interaction platforms have
3 no substantial non-infringing uses. At least as early as the date of service of [24]7's Complaint,
4 Defendant knows that the infringing features of its live-interaction platforms are especially made
5 or especially adapted for use in infringement of the '552 Patent.

6 58. [24]7 has suffered damages as a result of Defendant's infringement of the '552
7 Patent.

8 59. Defendant's infringement, contributory infringement and inducement of
9 infringement are literal infringement or, in the alternative, infringement under the doctrine of
10 equivalents.

11 60. Defendant will continue to infringe, induce others to infringe, and/or engage in
12 contributory infringement of the '552 Patent unless enjoined by the Court.

13 61. Defendant's acts of infringement have caused and, unless enjoined by this Court,
14 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
15 adequate remedy at law.

16 **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 6,970,553**

17 62. [24]7 repeats and realleges each and every allegation contained in the preceding
18 paragraphs, with the same force and effect as if repeated in full here.

19 63. Defendant's live-interaction platforms, including its LivePerson platform and
20 LiveEngage platform, and Defendant's IVR Deflection feature, provide end users the option to
21 choose whether to engage in a voice call or an electronic chat session. End users who make a
22 phone call to the company reach an interactive voice response (IVR) system, a computer system
23 that interacts with the end user through the use of voice or dial tones. The IVR system provides
24 the end user with the option to chat. If the end user chooses to chat, the IVR system sends an
25 SMS text message containing a link to the end user. An end user can click on the link. If a chat
26 agent is available, the end user begins a chat session with an agent instead of waiting on hold for
27 a telephone agent.
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1 64. Defendant infringes the '553 patent by *inter alia*, making, using, selling, offering
2 for sale, importing, and supporting Defendant's live-interaction platforms and the IVR Deflection
3 feature. The '553 Patent discloses a method and computer readable medium for allowing a party
4 to choose between a telephone call and an electronic chat, including a method and computer
5 readable medium for converting a voice call attempt into an alternate medium for real-time
6 communication by (1) receiving a telephone call request; (2) checking for accessibility of an
7 electronic chat client associated with a called party; and (3) prompting a calling party to choose
8 whether or not to electronically chat. Defendant performs each of these steps in providing its
9 live-interaction platforms and IVR Deflection to end users. Defendant further provides a
10 computer readable medium for performing these steps. Defendant has acted without authority or
11 license from [24]7 or the prior owner(s) of the '553 Patent, in violation of 35 U.S.C. § 271(a).

12 65. Defendant induces others to infringe the '553 Patent in violation of 35 U.S.C. §
13 271(b) through the use of its live-interaction platforms and through the use of IVR Deflection as
14 described above. Since at least as early as the date of service of [24]7's Complaint, Defendant
15 has knowingly induced its customers, potential customers, and end users to infringe the '553
16 Patent with the specific intent to encourage such infringement. Defendant actively promotes the
17 use and sale of its live-interaction platforms and IVR Deflection in an infringing manner through
18 advertisements, user manuals, online support pages, and the LivePerson Customer Center.
19 Defendant further offers video and live tutorials, training, and customer service support for its
20 live-interaction platforms and IVR Deflection. Defendant provides these documents, training,
21 and services with the specific intent to induce customers and other third parties to use its live-
22 interaction platforms and IVR Deflection in an infringing manner.

23 66. Defendant contributorily infringes the '553 Patent in violation of 35 U.S.C. §
24 271(c). Defendant sells and offers to sell its live-interaction platforms and IVR Deflection for use
25 in practicing the patented process disclosed in the '553 Patent. Defendant's live-interaction
26 platforms and IVR Deflection are material to practicing the invention. The infringing features of
27 Defendant's live-interaction platforms and IVR Deflection have no substantial non-infringing
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1 uses. At least as early as the date of service of [24]7's Complaint, Defendant knows that the
2 infringing features of its live-interaction platforms and IVR Deflection are especially made or
3 especially adapted for use in infringement of the '553 Patent.

4 67. [24]7 has suffered damages as a result of Defendant's infringement of the '553
5 Patent.

6 68. Defendant's infringement, contributory infringement and inducement of
7 infringement are literal infringement or, in the alternative, infringement under the doctrine of
8 equivalents.

9 69. Defendant will continue to infringe, induce others to infringe, and/or engage in
10 contributory infringement of the '553 Patent unless enjoined by the Court.

11 70. Defendant's acts of infringement have caused and, unless enjoined by this Court,
12 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
13 adequate remedy at law.

14 **COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 6,975,719**

15 71. [24]7 repeats and realleges each and every allegation contained in the preceding
16 paragraphs, with the same force and effect as if repeated in full here.

17 72. Defendant's live-interaction platforms, including its LivePerson platform and
18 LiveEngage platform, and Defendant's IVR Deflection feature, provide end users the option to
19 choose whether to engage in a voice call or an electronic chat session. End users who make a
20 phone call to the company reach an interactive voice response (IVR) system, a computer system
21 that interacts with the end user through the use of voice or dial tones. The IVR system provides
22 the end user with the option to chat. If the end user chooses to chat, the IVR system sends an
23 SMS text message containing a link to the end user. An end user can click on the link. If a chat
24 agent is available, the end user begins a chat session with an agent instead of waiting on hold for
25 a telephone agent.

26 73. Defendant's live-interaction platforms additionally generate multichannel
27 invitations. Visitors browsing a website are prompted to connect with a customer service
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1 representative using chat or voice. The visitor may select to talk by entering a telephone number,
2 in which case the live-interaction platform checks if an agent is available to talk to the visitor. If
3 so, the visitor will receive a telephone call. The visitor may alternatively select to chat, in which
4 case the live-interaction platform checks if an agent is available to chat with the visitor. If so, a
5 chat session will commence.

6 74. Defendant infringes the '719 patent by *inter alia*, making, using, selling, offering
7 for sale, importing, and supporting Defendant's live-interaction platforms and the IVR Deflection
8 feature. The '719 Patent discloses a method, system, and computer-readable medium for
9 prompting a called party to choose either to chat or call, including a method, system, and
10 computer readable medium for (1) checking accessibility of a calling party chat client and (2)
11 prompting a called party to choose to either talk or electronically chat if the calling party chat
12 client is accessible. Defendant performs each of these steps in providing its live-interaction
13 platforms and IVR Deflection to end users. Defendant further provides a system and computer
14 readable medium for performing these steps. Defendant has acted without authority or license
15 from [24]7 or the prior owner(s) of the '719 Patent, in violation of 35 U.S.C. § 271(a).

16 75. Defendant induces others to infringe the '719 Patent in violation of 35 U.S.C. §
17 271(b) through the use of its live-interaction platforms and through the use of IVR Deflection as
18 described above. Since at least as early as the date of service of [24]7's Complaint, Defendant
19 has knowingly induced its customers, potential customers, and end users to infringe the '719
20 Patent with the specific intent to encourage such infringement. Defendant actively promotes the
21 use and sale of its live-interaction platforms and IVR Deflection in an infringing manner through
22 advertisements, user manuals, online support pages, and the LivePerson Customer Center.
23 Defendant further offers video and live tutorials, training, and customer service support for its
24 live-interaction platforms and IVR Deflection. Defendant provides these documents, training,
25 and services with the specific intent to induce customers and other third parties to use its live-
26 interaction platforms and IVR Deflection in an infringing manner.

1 76. Defendant contributorily infringes the '719 Patent in violation of 35 U.S.C. §
2 271(c). Defendant sells and offers to sell its live-interaction platforms and IVR Deflection for use
3 in practicing the patented process disclosed in the '719 Patent. Defendant's live-interaction
4 platforms and IVR Deflection are material to practicing the invention. The infringing features of
5 Defendant's live-interaction platforms and IVR Deflection have no substantial non-infringing
6 uses. At least as early as the date of service of [24]7's Complaint, Defendant knows that the
7 infringing features of its live-interaction platforms and IVR Deflection are especially made or
8 especially adapted for use in infringement of the '719 Patent.

9 77. [24]7 has suffered damages as a result of Defendant's infringement of the '719
10 Patent.

11 78. Defendant's infringement, contributory infringement and inducement of
12 infringement are literal infringement or, in the alternative, infringement under the doctrine of
13 equivalents.

14 79. Defendant will continue to infringe, induce others to infringe, and/or engage in
15 contributory infringement of the '719 Patent unless enjoined by the Court.

16 80. Defendant's acts of infringement have caused and, unless enjoined by this Court,
17 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
18 adequate remedy at law.

19 **COUNT VII: INFRINGEMENT OF U.S. PATENT NO. 7,245,715**

20 81. [24]7 repeats and realleges each and every allegation contained in the preceding
21 paragraphs, with the same force and effect as if repeated in full here.

22 82. Defendant's live-interaction platforms, including its LivePerson platform and
23 LiveEngage platform, and Defendant's IVR Deflection feature, provide end users the option to
24 choose whether to engage in a voice call or an electronic chat session. End users who make a
25 phone call to the company reach an interactive voice response (IVR) system, a computer system
26 that interacts with the end user through the use of voice or dial tones. The IVR system provides
27 the end user with the option to chat. If the end user chooses to chat, the IVR system sends an
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1 SMS text message containing a link to the end user. An end user can click on the link. If a chat
2 agent is available, the end user begins a chat session with an agent instead of waiting on hold for
3 a telephone agent.

4 83. Defendant's live-interaction platforms additionally generate multichannel
5 invitations. Visitors browsing a website are prompted to connect with a customer service
6 representative using chat or voice. The visitor may select to talk by entering a telephone number,
7 in which case the live-interaction platform checks if an agent is available to talk to the visitor. If
8 so, the visitor will receive a telephone call. The visitor may alternatively select to chat, in which
9 case the live-interaction platform checks if an agent is available to chat with the visitor. If so, a
10 chat session will commence.

11 84. Defendant infringes the '715 patent by *inter alia*, making, using, selling, offering
12 for sale, importing, and supporting Defendant's live-interaction platforms and the IVR Deflection
13 feature. The '715 Patent discloses a method, system, and computer-readable medium for
14 prompting a called party to choose either to chat or call, including a method, system, and
15 computer readable medium for (1) checking accessibility of a sending party chat client and (2)
16 prompting a receiving party to choose to either talk or electronically chat of the receiving party
17 chat client is accessible. Defendant performs each of these steps in providing its live-interaction
18 platforms and IVR Deflection to end users. Defendant further provides a system and computer
19 readable medium for performing these steps. Defendant has acted without authority or license
20 from [24]7 or the prior owner(s) of the '715 Patent, in violation of 35 U.S.C. § 271(a).

21 85. Defendant induces others to infringe the '715 Patent in violation of 35 U.S.C. §
22 271(b) through the use of its live-interaction platforms and through the use of IVR Deflection as
23 described above. Since at least as early as the date of service of [24]7's Complaint, Defendant
24 has knowingly induced its customers, potential customers, and end users to infringe the '715
25 Patent with the specific intent to encourage such infringement. Defendant actively promotes the
26 use and sale of its live-interaction platforms and IVR Deflection in an infringing manner through
27 advertisements, user manuals, online support pages, and the LivePerson Customer Center.

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1 Defendant further offers video and live tutorials, training, and customer service support for its
2 live-interaction platforms and IVR Deflection. Defendant provides these documents, training,
3 and services with the specific intent to induce customers and other third parties to use its live-
4 interaction platforms and IVR Deflection in an infringing manner.

5 86. Defendant contributorily infringes the '715 Patent in violation of 35 U.S.C. §
6 271(c). Defendant sells and offers to sell its live-interaction platforms and IVR Deflection for use
7 in practicing the patented process disclosed in the '715 Patent. Defendant's live-interaction
8 platforms and IVR Deflection are material to practicing the invention. The infringing features of
9 Defendant's live-interaction platforms and IVR Deflection have no substantial non-infringing
10 uses. At least as early as the date of service of [24]7's Complaint, Defendant knows that the
11 infringing features of its live-interaction platforms and IVR Deflection are especially made or
12 especially adapted for use in infringement of the '715 Patent.

13 87. [24]7 has suffered damages as a result of Defendant's infringement of the '715
14 Patent.

15 88. Defendant's infringement, contributory infringement and inducement of
16 infringement are literal infringement or, in the alternative, infringement under the doctrine of
17 equivalents.

18 89. Defendant will continue to infringe, induce others to infringe, and/or engage in
19 contributory infringement of the '715 Patent unless enjoined by the Court.

20 90. Defendant's acts of infringement have caused and, unless enjoined by this Court,
21 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
22 adequate remedy at law.

23 **COUNT VIII: INFRINGEMENT OF U.S. PATENT NO. 7,215,757**

24 91. [24]7 repeats and realleges each and every allegation contained in the preceding
25 paragraphs, with the same force and effect as if repeated in full here.

26 92. Defendant's live-interaction platforms, including its LivePerson platform and
27 LiveEngage platform, provide scripted statements to agents. These scripted statements are
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1 alternatively described in these live-interaction platforms as “canned responses,” “predefined
2 content” and/or “recommended content.” During a chat session, an agent is provided with
3 scripted statements broken down into categories. For instance, scripted statements might be
4 categorized as “welcome messages” or “sales related questions.” At the same time, Defendant’s
5 live-interaction platforms collect a variety of information regarding a visitor. The live-interaction
6 platforms can generate a script that will incorporate visitor information into the response, such as
7 by the use of a macro. The script will be displayed to the agent, who can then use the script to
8 communicate with a visitor.

9 93. Defendant infringes the ’757 patent by *inter alia*, making, using, selling, offering
10 for sale, importing, and supporting Defendant’s live-interaction platforms, including scripted
11 statements. The ’757 Patent discloses a method, system, and computer readable medium for
12 providing scripted responses for customer service agents, including a method, system, and
13 computer-readable medium for (1) obtaining information identifying a party, (2) obtaining
14 content related to the party, (3) generating a script based, at least in part, on the obtained content,
15 and (4) displaying the script to the agent while the communication is still in progress. Defendant
16 performs each of these steps in providing its live-interaction platforms including scripted
17 statements. Defendant further provides a system and computer readable medium for performing
18 these steps. Defendant has acted without authority or license from [24]7 or the prior owner(s) of
19 the ’757 Patent, in violation of 35 U.S.C. § 271(a).

20 94. Defendant induces others to infringe the ’757 Patent in violation of 35 U.S.C. §
21 271(b) through the use of its live-interaction platforms including scripted statements. Since at
22 least as early as the date of service of [24]7’s Complaint, Defendant has knowingly induced its
23 customers, potential customers, and end users to infringe the ’757 Patent with the specific intent
24 to encourage such infringement. Defendant actively promotes the use and sale of its live-
25 interaction platforms in an infringing manner through advertisements, user manuals, online
26 support pages, and the LivePerson Customer Center. Defendant further offers video and live
27 tutorials, training, and customer service support for its live-interaction platforms. Defendant
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1 provides these documents, training, and services with the specific intent to induce customers and
2 other third parties to use its live-interaction platforms in an infringing manner.

3 95. Defendant contributorily infringes the '757 Patent in violation of 35 U.S.C. §
4 271(c). Defendant sells and offers to sell its live-interaction platforms for use in practicing the
5 patented process disclosed in the '757 Patent. Defendant's live-interaction platforms are material
6 to practicing the invention. The infringing features of Defendant's live-interaction platforms have
7 no substantial non-infringing uses. At least as early as the date of service of [24]7's Complaint,
8 Defendant knows that the infringing features of its live-interaction platforms are especially made
9 or especially adapted for use in infringement of the '757 Patent.

10 96. [24]7 has suffered damages as a result of Defendant's infringement of the '757
11 Patent.

12 97. Defendant's infringement, contributory infringement and inducement of
13 infringement are literal infringement or, in the alternative, infringement under the doctrine of
14 equivalents.

15 98. Defendant will continue to infringe, induce others to infringe, and/or engage in
16 contributory infringement of the '757 Patent unless enjoined by the Court.

17 99. Defendant's acts of infringement have caused and, unless enjoined by this Court,
18 will continue to cause [24]7 to sustain irreparable damage, loss and injury, for which [24]7 has no
19 adequate remedy at law.

20 21 **PRAYER FOR RELIEF**

22 WHEREFORE, [24]7 prays for judgment against Defendant as follows:

23 1. Preliminarily and permanently enjoining Defendant, its officers, agents,
24 servants, and employees, and all persons acting in concert with them, and each of them, from
25 infringing, inducing others to infringe, and/or engaging in contributory infringement of the '209
26 Patent, the '876 Patent, the '586 Patent, the '552 Patent, the '553 Patent, the '719 Patent, the '715
27 Patent, and the '757 Patent;

2. Awarding [24]7 damages based on Defendant's infringement of the '209 Patent, the '876 Patent, the '586 Patent, the '552 Patent, the '553 Patent, the '719 Patent, the '715 Patent, and the '757 Patent in an amount according to proof, and trebling same by reason of the willful, wanton, and deliberate nature of such infringement;

3. Declaring that this is an exceptional case under 35 U.S.C. § 285 and awarding [24]7 its attorneys' fees and costs in this action;

4. Assessing prejudgment interest on damages; and,

5. Awarding [24]7 such other and further relief as the Court deems just and equitable.

Dated: December 7, 2015

/s/ Mark E. Miller

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DEMAND FOR JURY TRIAL

[24]7 hereby demands trial by jury of all issues so triable under the law.

Dated: December 7, 2015

/s/ Mark E. Miller

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